

Racial Issues in U.S. Constitutional History Syllabus
Spring Semester 2025 – Maddox
Office Hours: By appointment or after class
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Casebook:

Geeta N. Kapur - Race, Law, and The Struggle for Racial Equality in the U.S.
Andrew Kull - The Color-Blind Constitution
Donald E. Lively - The Constitution and Race

Recommended Texts:

- Peter Kolchin – American Slavery 1619-1877
- Kenneth M. Stampp – The Peculiar Institution, Slavery in the Ante-Bellum South
- David Brion Davis – The Problem of Slavery in Western Culture
- Taylor Branch – Parting the Waters, American in the King Years, 1954-63
- Annette Gordon-Reed – Race on Trial, Law and Justice in American History
- W.E.B. Du Bois – The Souls of Black Folk
- John Hope Franklin; Loren Schweninger – Runaway Slaves, Rebels on the Plantation
- Don E. Fehrenbacher - The Slaveholding Republic, An Account of the United States Government's Relations to Slavery
- Daina Ramey Berry – The Price for Their Pound of Flesh, The Value of the Enslaved, from Womb to Grave, in the Building of a Nation
- Heather Cox Richardson – The Death of Reconstruction, Race, Labor, and Politics in the Post-Civil War North, 1865-1901
- A. Leon Higginbotham, Jr. – Shades of Freedom, Racial Politics and Presumptions of the American Legal Process
- Kermit L. Hall; William M. Wiecek; Paul Finkelman – American Legal History Cases and Materials, 2nd Edition

Class Meetings:

We meet on Mondays from 8:00 am – 10:30 am in ROBH 123 and will take a short break during the middle of the class period.

Course Overview and Goals:

The focus of the course is to analyze and discuss the U.S. Supreme Court and other significant cases which involve racial issues and events throughout the course of American constitutional history. In addition, we will discuss the various problems that students, historians, attorneys, and legal scholars face in the analysis and interpretation of precedent cases.

Participation:

Roll will be taken at the beginning of every class. If you are tardy to class, please come in, take a seat, and sign the roll after class. If you need to miss class, please email me and Ms. Uelman in advance, so we may work with you on any missed work.

Grading:

Weekly papers – 40% of your final grade

Presentation and Large Paper – 40% of your final grade

Attendance/Participation – 20% of your final grade

Weekly papers: 2-4 pages due before the beginning of each class, so that you can be prepared to fully participate in class. Please email your weekly paper to Ms. Uelman but do not place your name on the paper itself.

Presentation and Large Paper: Class will be divided up into groups. Groups will randomly be assigned one of the class dates/cases in the schedule below. The expectation for the PowerPoint presentation is that it will be a minimum of 60 minutes and a maximum of 90 minutes with an accompanying paper of no more than 10 pages. You are allowed use graphic design, music, video, movie snippets, etc. in your presentation, though please be thoughtful about the balance of using documentaries, movies, music, etc. as this is your presentation.

Attendance/Participation: Expectations are that the student will come to class prepared, participate in the discussion, and also ask questions/inquiries after their colleagues' presentations.

Intended Class Schedule

January 6, 2025

Introduction to course, review syllabus, lecture and class expectations

Casebook: Chapter 1: The Language of Race and Racism, p1-33

Articles provided via email from Ms. Uelman

January 13, 2025

Constitution and Race: Introduction, pp. 1-9 & Chapter 1, Constitutional Law and Slavery, pp. 11-37

Color-Blind – pp. 7-21

Cases:

The Necessary Foundation for Understanding the Constitution and United States Court Cases

The United States Constitution, Art.1, Sec. 2, Cl. 3, Art.1, Sec. 9, Cl. 1, Art.1, Sec. 9, Cl. 5, Art.4, Sec. 2, Cl. 3,

Marbury v. Madison, 5 U.S. 137 (1803)

Barron v. Baltimore, 32 U.S. 243 (1833)

January 20, 2025 - Celebration and Observance of Dr. MLK Jr. Holiday

January 27, 2025 – Text Reading

Casebook: Chapter 2 Race and Early U.S. History, pp. 33-101

The Amistad Rebellion

United States v. Amistad, 40 US 518 (1841)

February 3, 2025 – Text Reading:

Constitution and Race:

Chapter 2, Toward a More Perfect Union, 39-59

Chapter 3, Constitutional Amendment and Doctrinal Development, 61-88

Color-Blind:

Chapter 2, The Lynn Petition, pp. 22-39

Chapter 3, Sumner and Shaw, pp. 40-51

Chapter 4, The Reconstruction Amendments of Wendell Phillips, pp. 53-66

Chapter 5, The Thirty-Ninth Congress, pp. 67-77

Cases:

The Conflict of Constitutional Racism in the Nineteenth Century

Dred Scott v. Sandford, 60 U.S. 393 (1856)

Missouri Compromise

Reconstruction Amendments

February 10, 2025 - Text Reading:

Casebook: Chapter 2 Race and Early U.S. History, pp. 102 - 196

Constitution and Race:

Chapter 4, Separate But Equal, pp. 89-107

Color-Blind:

Chapter 6, The Judicial Assessment, pp. 88-112

Chapter 7, Plessy v. Ferguson, pp. 113-130

Cases:

Judicial Interpretation of the 14th Amend. And the Birth of “Separate But Equal”

The Slaughterhouse Cases, 83 U.S. 36 (1872)

Strauder v. West Virginia, 100 U.S. 303 (1880)

The Civil Rights Cases, 109 U.S. 3 (1883)

Plessy v. Ferguson, 163 U.S. 537 (1896)

February 17, 2025 – Text Reading:

Casebook: Chapter 3 The Battles for Equal Education, pp. 197-278

Constitution and Race:

Chapter 5, Desegregation and the Anti-Discrimination Principle, pp. 109-135

Color-Blind:

Chapter 8, Separate But Equal, pp. 131-150

Chapter 9, Brown v. Board of Education, pp. 151-163

Cases:

Racial Segregation in Schools and Other Public Facilities

Brown v. Board of Education of Topeka, 347 U.S. 483 (1954)

Bolling v. Sharpe, 347 U.S. 497 (1954) (D.C. school seg case)

Brown v. Board of Education of Topeka, 349 U.S. 294 (1955)

Cooper v. Aaron, 358 U.S. 1 (1958)

Green v. County Sch. Bd. Of New Kent County, Va, 391 U.S. 430 (1968)

February 24, 2025 – Text Reading:

Casebook: Chapter 3 The Battles for Equal Education, pp. 197-278

Color-Blind:

Chapter 10, The Road Not Taken, pp. 164-181

Cases:

Racial Segregation in Schools and Other Public Facilities

Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1 (1971)

Keyes v. School Dist. No. 1, Denver, Colorado, 413 U.S. 189 (1973)

Milliken V. Bradley, 418 U.S. 717 (1974)

Milliken v. Bradley, 433 U.S. 267 (1977)

United States v. Fordice, 505 U.S. 717 (1992)

March 3, 2025 - Birmingham Civil Rights Institute Week

March 10, 2025 – Spring Break – No class

March 17, 2025

Powell v. Alabama, 287 U.S. 45 (1932)

Patterson v. Alabama, 294 U.S. 600 (1935)

March 24, 2025

The Japanese Curfew and Evacuation Cases

Hirabayashi v. United States, 320 U.S. 81 (1943)

Korematsu v. United States, 323 U.S. 214 (1944)

Ex parte Endo, 323 U.S. 283 (1944)

March 31, 2025

The Power to Enforce Civil Rights Legislation under the Commerce Clause

Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241 (1964)

Katzenbach v. McClung, 379 U.S. 294 (1964)

April 7, 2025

Constitution and Race:

Chapter 6, Color Blindness Revisited, pp. 137-168

Cases:

Classification Disadvantaging Racial Minorities

Loving v. Virginia, 388 U.S. 1 (1967)

Palmore v. Sidoti, 466 U.S. 429 (1984)
Washington v. Davis, 426 U.S. 229 (1976)

April 14, 2025

Casebook: Chapter 4 Structural Barriers in Property, Housing, and Wealth, pp. 351 – 454

Color-Blind:

Chapter 11, Benign Racial Sorting, pp. 182-224

Classification Advantaging Racial Minorities/Affirmative Action cases

Regents of the University of California v. Bakke, 438 U.S. 265 (1978)

City of Richmond v. J.A. Croson Company, 488 U.S. 469 (1989)

Adarand Constructors, Inc. v. Pena, 515 U.S. 200 (1995)

Racial Gerrymandering and the Voting Rights Act

April 21, 2025– Observance of the Easter Holiday – No class

April 22, 2025

Casebook: Chapter 3 The Battles for Equal Education, pp. 281 - 350

Students for Fair Admissions v. University of North Carolina 600 U.S. 181 (2023)

*****NOTICE*****

The Professor reserves the right to make changes to the syllabus as deemed necessary, throughout the course of the academic term.

Spring 2025

Cumberland School of Law

I. Statement regarding online or remote delivery if the course must transition to a digital learning format:

Students must attend class and check email and Canvas regularly for any important updates from the course instructor and/or university administration in the event course delivery format needs to transition.

II. Attendance

Attendance at all class meetings—including make-up classes, if any—is expected and students are to come to class prepared to discuss the required reading assignment. Faculty have discretion in determining how attendance will be recorded, whether through a mobile or other application or via a paper roll sheet. Regardless of format, no student may sign in for another student or facilitate the sign-in of a student who is not actually present in the classroom. Students who fail to sign in during class or as directed by the professor will be presumed to have been absent for that class.

ABA standards require regular and punctual class attendance. To facilitate compliance with this standard, the law school uses an attendance policy under which students may not miss more than 20 percent (20%) of the scheduled class meetings for any course. At the beginning of each semester or term of classes, the Associate Dean of Academic Affairs will calculate and post the maximum number of absences that will be permitted in every course. Any student with absences in excess of the maximum number will receive a mandatory grade reduction to the next lower grade. *Additional absences (regardless of reason), may result in further grade reductions, including reductions down to F, in the discretion of the faculty member and after consultation with the Associate Dean.* Individual faculty members may impose more stringent class attendance policies as they deem appropriate, but in no event shall any faculty member adopt an attendance policy that is less stringent than the rule set forth herein.

For purposes of applying this rule, all student absences from any course for whatever reason will be considered in determining whether a student has exceeded 20 percent (20%) of allowed absences permitted under this policy, except for absences due to university mandated quarantine for COVID-related illness, or exigent circumstances as determined by the Associate Dean. In the event a student is under quarantine by the university, he or she must provide the Associate Dean with the university instruction to quarantine within 48 hours. Without timely notification to the Associate Dean, this exception will **not** apply. An excused absence does not relieve a student of responsibility for the academic work in the class missed. It is the student's sole responsibility to record his or her class attendance in the manner specified by each individual faculty member and to monitor his or her own class absences in all law school courses.

III. Technology needs:

Because of the possibility of a student needing to participate in the course virtually at some point during the semester, all students should have the following technology available to them:

- A Windows or Macintosh desktop or laptop computer with a currently supported operating system version; although Chromebooks and mobile devices are capable of accessing the Canvas learning management system, they may not be compatible with certain third-party software.
- A web cam (built into most modern laptops)
- A microphone and speakers, headphones, or earbuds (also built into most modern laptops)
- The most recent version of the Chrome or Firefox Web browser; the Safari browser can be particularly problematic when accessing online courses.
- A stable Internet connection capable of at least 2 Mbps upstream and 5 Mbps downstream. Students may test the speed of their connection at <http://speedtest.net>

IV. Emergency Readiness:

RAVE is the primary method of communication used by Samford University during a campus emergency. If you have not registered for RAVE alerts, please use the link provided below and go to the My Contact Information box on your Portal homepage to update your RAVE Emergency Alert Information. <https://connect.samford.edu/group/mycampus/student>

Samford University utilizes Alert Samford for desktop, laptop, tablet, and mobile devices to provide students with information, procedures, and links about what to do in the event of a variety of emergency situations that could occur on our campus. If you do not already have the Alert Samford app on your mobile device, laptop, desktop, or tablet, please click on this link <https://connect.samford.edu/group/mycampus/student> and go to the Emergency Information box on your Portal homepage for instructions on downloading the App. Once you have downloaded the App, please take time to review the information provided, it is important that you know what to do in the case of a campus emergency.

V. Americans with Disabilities Act:

Students with disabilities or chronic health conditions who wish to request accommodations must register with the Office of Accessibility and Accommodations (“OAA”) (205) 726-4078, access@samford.edu, DBH 203, www.samford.edu/dr. Students who are registered with OAA are responsible for providing a copy of their accommodations letter to Cumberland’s Office for ADA Compliance, Robinson Hall Room 124A , and *must* schedule a meeting with its Director, tlhitson@samford.edu, to discuss how their approved accommodations will apply to this course. Accommodations will not be

implemented until students have met with Ms. Hitson to review their accommodation letter.

Classroom accommodations are not retroactive; therefore, prompt attention to the process is advisable. Because the process of evaluating and documenting a student's need for accommodations can be time consuming, students are encouraged to contact OAA as soon as possible in order to ensure the completion of the paperwork necessary to receive classroom accommodations. **Students who wish to receive Examination accommodations must provide a letter from OAA to Ms. Hitson, no later than thirty (30) days prior to the last day of classes.** Accommodations received after the deadline will be processed for the following semester; there are no exceptions to this policy.

VI. Title IX:

Samford University and its faculty are committed to creating and maintaining a safe learning environment for all students and the entire University community. If you or someone you know has experienced sexual harassment, sexual assault, relationship violence, stalking, or discrimination based on sex or gender, please know that help and support are available. Samford University strongly encourages all community members to report incidents of sexual misconduct to the Title IX Office. You may contact the Title IX Office at 205-726-2764 or titleix@samford.edu.

Please be aware that all faculty members are required to disclose information concerning suspected or alleged sexual harassment or other violations of the Samford University Sexual Misconduct Policy to the Title IX Office. You can also make a disclosure yourself, including an anonymous report, through the Sexual Misconduct Report Form accessible on the Title IX website at <https://www.samford.edu/students/title-ix/>. If the Title IX Office receives information about an incident, they will reach out to offer information about resources, rights, and available procedural options. It is a student's choice whether they wish to engage or respond to that outreach.

If you, or another student you know, wish to speak with a confidential resource who is not obligated to report information to the Title IX Coordinator, please reference the list of confidential resources in the online student handbook. You can also connect with a confidential resource through the Counseling Office at 205-726-4083 or the Office of Spiritual Life at 205-726-2825.

VII. Inclement Weather:

Inclement weather or other events beyond the control of the University that might cause risk or danger to students, faculty and staff may occasionally result in changes to normal University operations, including cancellation of classes or events; the class schedule and/or calendar may be adjusted.

VIII. Counseling Services:

Students may benefit from meeting with a counselor at some point to discuss difficult issues, gain insight for dealing with stress, or to process and understand events from the past. When a need for counseling arises, students should contact Counseling Services & Wellness Programs. On-site appointments are prepaid

through student fees and there is no extra cost to the student. To schedule an appointment, please email counseling@samford.edu, call 205-726-4083, stop by the Samford Cares Center, or make an appointment online here: <https://www.samford.edu/departments/student-support/>.

IX. Academic Integrity:

The University catalog provides that “students, upon enrollment, enter into voluntary association with Samford University. They must be willing to observe high standards of intellectual integrity; they must respect knowledge and practice academic honesty.” Unless an instructor provides specific instructions to the contrary, students are expected to conduct their course work independently. In no event may students cheat, copy, or plagiarize the work of others. When drawing from various resources for assignments, students shall provide proper citations, footnotes, and bibliographic information.

Unless expressly authorized by the professor, the use of generative artificial intelligence tools (including but not limited to ChatGPT and iA Writer) is not permitted on, or in preparation for, any graded work (including but not limited to assignments, quizzes, and exams). Violation of this rule may result in a reduction of the grade for the work, including a reduction down to F, a report to the Honor Court, or both. If you have any question about use of any specific AI tool on, in preparation for, any graded work, ask your professor for permission before using that tool.

The instructor of this course reserves the right to issue an academic penalty to students who are found responsible for violations of Samford’s honor code (undergraduate programs) or academic integrity (graduate and professional programs). Academic penalties assigned by the instructor may include, but are not limited to, a grade of zero for the assignment/assessment and/or a lowered cumulative course grade.

Academic penalties issued by the instructor are separate and apart from any sanction issued by the honor council or honor court. Academic integrity violations shall be governed by the policy that applies in the school or program in whose course or activity the alleged violation occurred.

Please refer to the following for additional details:

1. Law School Student Handbook - [Student Handbook.pdf \(samford.edu\)](#)
2. Law School Honor Code - [honor_code.pdf \(samford.edu\)](#)

X. Library Services:

Lucielle Stewart Beeson Law Library (samford.edu/law/library) is more than just a building; it is a vast array of resources curated to support your success. In addition to print, media, and online resources, the library has collaborative meeting and study spaces, technology that supports your academic endeavors, and professional librarians with the expertise to assist with research needs. Please Ask Us (glsimms@samford.edu), email us (ljones17@samford.edu), or call us at 205-726-2430 for more information about how we can help. We are here to assist with your information and research needs.